

Remarks

Claims 1-24 are pending. Claims 5, 7, 13, 14 and 17-24 are withdrawn from consideration. Claims 1-4, 6, 8-12, 15 and 16 are rejected.

Information Disclosure Statement

Applicant submitted an Information Disclosure Statement (IDS) mailed on July 30, 2003. In the Office Action mailed on January 18, 2007, the Examiner indicated that he could not locate the Form PTO-1449 filed with the IDS so that he could sign off the references filed in the IDS. Applicant re-submitted a copy of the PTO-1449 as filed on July 30, 2003 in the response to Office Action submitted on March 19, 2007. However, the Office Action mailed on June 7, 2007 does not include the initialed Form PTO-1449.

Applicant again respectfully requests the Examiner to return the Form PTO-1449 where the references are initialed or signed off.

Rejections under 35 U.S.C. § 103

Claims 1-4, 6, 8-12, 15 and 16 are rejected under 35 U.S.C. § 103(a) as being obvious over EP 0 970 711 A2 by Ethicon (“Ethicon”).

Claim 1 defines a coating for an implantable medical device comprising a first region having a drug and a second region on the top of the first region having a polymer. The polymer has a glass transition temperature between 35 °C and about 50 °C and contains less than about 1 mass % of water. As amended, claim 1 recites that when the body temperature a the patient in which the device is implanted rises to a temperature above the patient's normal body temperature, the morphology of coating changes so as to change the release rate of the drug in the coating. This feature allows the coating to have a drug release profile that is sensitive and

responsive to the body condition of a patient in which a device is implanted. This feature is clearly missing in Ethicon, discussed above.

Ethicon describes a process of forming a coating on a stent. The coating can include a non-acrylic polymer such as vinyl halides, polystyrenes or polyoxymethylenes. However, Ethicon does not describe or provide any teaching for forming a coating that has a drug release profile that is sensitive and responsive to the body condition of a patient in which a device is implanted as defined by claims 1 or 9. Claims 1 and 9 are therefore cannot be obvious over Ethicon under 35 U.S.C. 103(a). Claims 1 and 9 are therefore patentably allowable over Ethicon. Claims 2-4, 6 and 8, which depend from claim 1, and claims 10-12, 15, and 16, which depend from claim 9, are patentably allowable over Ethicon for at least the same reason.

The undersigned authorizes the examiner to charge any fees that may be required or credit of any overpayment to be made to Deposit Account No. 07-1850.

CONCLUSION

Withdrawal of the rejection and allowance of the claims are respectfully requested. **If the Examiner has any suggestions or amendments to the claims to place the claims in condition for allowance, applicant would prefer a telephone call to the undersigned attorney for approval of an Examiner's amendment.** If the Examiner has any questions or concerns, the Examiner is invited to telephone the undersigned attorney at (415) 393-9885.

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Squire, Sanders & Dempsey L.L.P.
One Maritime Plaza, Suite 300
San Francisco, CA 94111
Telephone (415) 393-9885
Facsimile (415) 393-9887

Respectfully submitted,



Zhaoyang Li, Ph.D., Esq.
Reg. No. 46,872